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PART-IIA

GOVERNMENT OF MEGHALAYA

ORDERS BY THE GOVERNOR

NOTIFICATION

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION
SHILLONG

The 21st January, 2011.

No.MSERC/83/2010/15. - The following draft of the Meghalaya State Electricity Regulatory Commission (Power Purchase and Procurement) Regulations, 2011 which the Commission proposes to make in exercise to the powers conferred under section 181 read with clause (b) of sub section(1) of section 86 of the Electricity Act, 2003 and all powers enabling it in that behalf are hereby previously published as required under subsection (3) thereof and notice is hereby given that any person or persons who may be interested may send their objections, suggestions or comments to the Secretary of the Commission, New Administrative Building, Lower Lachumiere, Shillong within 30 days of the publication of this notification in the Gazette of Meghalaya for consideration by the Commission.

Secretary
Meghalaya State Electricity Regulatory Commission
Shillong

**THE MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION
(POWER PURCHASE AND PROCUREMENT) REGULATIONS, 2011.**

(_____of 2011)

Chapter - 1.

General

1. Short Title and Commencement and applicability

1. These regulations shall be called the Meghalaya State Electricity Regulatory Commission (Power Purchase and Procurement) Regulations, 2011.
2. The Regulations shall come into force on the date of their notification in the Gazette of Meghalaya.
3. They shall apply to all distribution licensees within the State of Meghalaya for purchase and procurement of power for distribution and supply in the State.

Chapter – 2

Definitions

2. In these regulations, unless the context otherwise requires -

"Act" means the Electricity Act, 2003 (36 of 2003);

"Area of Supply" means the area within which a distribution licensee is authorized by his license to supply electricity;

"Commission" means the Meghalaya State Electricity Regulatory Commission (MSERC);

"Distribution Licensee" means a licensee authorized to operate and maintain a distribution system to supply electricity to consumers in his area of supply;

"License" means a license granted under section 14 of the Act;

"Supply" means, in relation to electricity, the sale of electricity to a licensee or consumer;

The words and expressions used in these Regulations but not defined herein shall have the same meaning as assigned to them in the Act. Expressions used herein but not specifically defined in these Regulations or in the Act but defined under any law by a competent legislature and applicable to the electricity industry shall have the same meaning assigned to them in such law.

Chapter – 3

Procedure for power procurement

3. (1). A distribution licensee shall –

- (a). shall purchase power in an economical manner and by a transparent process through competitive bidding; and
- (b). may enter into agreements with or make arrangements for purchase of power from a generating company or trader or any licensee and such agreements or arrangements shall be on the basis of least cost method of supply.

(2). Any agreement or arrangement referred to in clause (b) of sub-regulation (1) shall require prior approval of the Commission before it is so made and for obtaining the approval the licensee shall make an application to the Commission with all relevant details about the purchase required.

(3). Agreements or arrangements entered by the licensee prior to the commencement of these regulations shall be deemed to have been made under these regulations and shall remain in force until the dates of their expiry:

Provided that the Commission may, after due consideration, order that an agreement or arrangement be cancelled or terminated if it is satisfied that the terms and conditions thereof are not in the interests of the consumers at large.

Chapter – 4

Planning for power procurement

4. Every licensee shall, before resorting to power procurement, shall assess and plan in accordance with the guidelines under this regulation and submit to the Commission for approval, that is -

(1) Demand forecast :

- (a) Every distribution licensee shall prepare, on an annual basis, forecast for the demand in his area of supply for each of the next succeeding seven years in accordance with the guidelines issued by the Commission from time to time and submit them to the Commission.
- (b) (i) The seven year forecast shall cover the unrestricted demand forecast for all categories both HT and LT.

Note: For this purpose, all categories whose total connected load is more than 5% of the total system connected load shall be considered as 'major' category and shall include HT industry, HT railways, HT mines, agriculture, domestic, LT industry, LT commercial and any other existing, new or merged categories.

- (ii) Technical and non-technical losses.
- (iii) The licensee shall estimate the current demand levels for the morning peak hours (06.00 to 10.00), evening peak hours (18.00 to 22.00) and remaining off-peak hours for all categories combined. This estimate shall include load curtailment plan also.

(c) The Commission may change the definition of peak hours, if necessary, based on a petition by a licensee or suo moto.

(d) The annual forecast shall be submitted on or before 10th April of each year including Energy Requirement Calculations (ERC) statement along with the tariff filing.

(2) Mode of assessment of demand forecast

(1) The demand forecast shall take into consideration:

- (i) trends and statistical analysis of historical data
- (ii) future projections
- (iii) forecasted results of implementation of business plan
- (iv) efficiency improvement programme
- (v) investment plans
- (vi) maintenance schedule of self generating plants
- (vii) central generating stations
- (viii) any other source of power

(3) The estimate for demand forecast shall be made for seven years keeping in view the previous year's observations, current year projections and econometric and statistical forecast and shall cover:

- (a) overall economic growth projections
- (b) category wise forecast of demand for 7 years – morning peak, evening peak and off peak hours
- (c) the unrestricted demand and load restrictions
- (d) cost of load curtailments and comparisons with cost of service and projected marginal cost of power
- (e) plans for reducing the requirement during the forecast period through efficient demand side management
- (f) projected improvements due to implementation of business plans and efficiency improvement measures.

5. The Commission may direct the licensee to furnish such information and / or clarifications as may be necessary to examine the proposal of demand forecast of the licensee.
6. The Commission, if necessary, may direct the licensee to publish the details of the load forecast, as specified, calling for any objections, comments or suggestions from the public within 15 days from the date of publication.
7. The Commission, after examining the objections, comments or suggestions received, shall accord approval to the demand forecast plan submitted by the licensee year-wise before the end of June each year.

8. Assessment of supply availability

- (1) The licensee shall also prepare an estimate of availability of power during the seven year plan period for the morning peak, evening peak and off-peak which shall be based on:
 - (a) existing shared resources, including state-owned, central and IPP owned generating plants
 - (b) generation with exclusive contracts with supply utilities / licensees
 - (c) forecast for plan period of energy and capacity availability from each of the existing sources of power
 - (d) commissioning of new generating stations during the period
 - (e) programmes for phasing out of old stations or extended period of maintenance / upgradation.
- (2) The licensee, while making assessments of demand and supply availability for all the months in the seven year planning period, shall consult all concerned, including state sector generating companies, distribution licensees (including private sector), central sector generating companies, transmission companies, Regional Electricity Boards, National / Regional / State Load Despatch Centres and Central Electricity Authority.
- (3) The licensee shall also submit to the Commission proposals on availability of power, along with proposals for load forecast for approval.

9. (1) The power procurement plan consists of.

- (A) Long term procurement plan for a period of 7 years and above;
- (B) Medium term procurement plan for a period upto 7 years but exceeding one year; and
- (C) Short-term procurement plan for a period below one year.

- (2) The licensee shall prepare a power procurement plan for the next seven years and submit to the Commission before the end of July each year as under.
- (3) The licensee shall prepare and submit proposals to the Commission in respect of : (A) Long term procurement (B) Medium term and (C) Short term procurement and (D) Investment plan as under:
 - (D) Long term and (B) Medium term procurement plan
 - (i) Based on the approval accorded by the Commission for the demand forecast and assessment of supply availability, the licensee shall prepare a long term / medium term power procurement plan, as the case may be, in advance of the concerned period with its plans for procurement of power and seek approval of the Commission which shall include:

- (a) projected demand in kW/kWh/kVAR
- (b) forecast of generation from owned stations and purchases from other stations or sources with which the licensee entered into long term PPAs;
- (c) assessment of gap; and
- (d) plans to fill up the gap and the sources of supply

(ii) the licensee shall consider a time frame of 7 (seven) years and approach the Commission every year with its rolling 5 year long term / medium term power procurement plan outlining its projections and plans for the coming seven years.

(iii) While preparing a long term / medium term power procurement plan, the licensee shall consider:

- (a) the balance requirement of power and energy during the plan period after accounting for the power procurement arrangements already entered into
- (b) plans for procuring additional capacity required
- (c) measures for demand curtailments
- (d) proposed method of competitive solicitations including criteria for evaluation of alternative options
- (e) providing of least cost plan i.e least financial cost to the licensee with ultimate objective of making available secure and reliable power supply to all consumers with economically viable tariff keeping in view the power supply planning and security standards

(iv) The license shall prepare and furnish:

- (i) month wise details of past years (with year wise totals) indicating power produced by:
 - (a) state generators
 - (b) central sector generating units
 - (c) other generators with whom long term / medium term power purchase agreements have been entered into
 - (d) short-term purchases made in MU and costs along with unit cost
 - (e) category wise sales and losses in his area of supply

(v) the licensee shall submit to the Commission an updated long-term / medium-term power procurement plan for the previous year as approved by the Commission and included in the annual ARR filing to take the latest developments into consideration.

(vi) The Commission may direct the licensee to furnish such information or data as may be necessary, to review the long-term / medium-term power procurement

plan within 2 (two) weeks from the date of receipt of the proposals from the licensee.

(vii) The Commission may, at its discretion, require the licensee to publish the main details of the long-term / medium-term power procurement plan in such a form and in such manner as may be specified to notify the public to offer or file objections, comments or suggestions within two weeks from the date of publication.

(viii) The Commission shall consider all the representations received and pass orders approving the long-term / medium-term power procurement plan of the licensee with such amendments or modifications as it may consider appropriate within 90 days from the date of receipt of the information in complete shape.

(ix) After approval of the long term / medium term procurement plan by the Commission, the licensee shall initiate action to procure power from any sources as per the procedure laid down by the Ministry of Power, Government of India from time to time and subject to such conditions as the Commission may stipulate and also enter into long term / medium term power purchase agreements or arrangements subject to the criteria laid down by the Commission.

10. Criteria for power purchase

(1) The Commission shall lay down the criteria for power purchase by the licensee taking into consideration:

- (i) policy directives of the Central or State Governments on power purchase, allocation including temporary allocation and diversion of power from different sources, generation from conventional and non-conventional energy sources within the State;
- (ii) guidelines on competitive bidding issued by MOP Government of India from time to time.
- (iii) consultation with State Transmission Utility, transmission licensees, generating companies, distribution licensees and State Load Despatch centre to meet power shortages and restrictions to be imposed.
- (iv) provision for spinning reserve or frequency control capacity
- (v) mechanism for spot or bilateral purchase or overdrawal / under drawal of active and reactive power by distribution licensees
- (vi) principle of least cost commensurate with the power system stability, system voltage, frequency profile and system losses;

(vii) power purchase and load management during under-frequency, over- frequency and island operations,

(viii) Giving preference for generation at zero cost, which may include:

- (a) generation from run of river or canal based hydro stations
- (b) generation from non-conventional energy sources like wind, solar etc but for which generation may waste; or generation from storage type hydro plant but for which generation may result in spillage of water

(2) The licensee shall endeavor at all times when voltage is low, not to import reactive power from grid. Requirements of reactive compensation in the state power system shall be based mainly on recommendations of the the Regional Load Despatch Centre.

(C) Short term power procurement Plan

(1) The licensee shall prepare a short-term forecast of demand for power and supply positions to plan for:

- (a) short-term power purchase agreements / arrangements
- (b) annual maintenance schedule
- (c) short term spot trade plan

(2) The licensee shall consider a time frame of one year and prepare procurement plan for each quarter (3 months) of a year.

(3) While submitting to the Commission proposals for short term power procurement, the licensee shall prepare an annual plan covering the following in respect of morning-peak, evening peak and off-peak periods.

- (a) category wise unrestricted demand forecast for the ensuing quarter
- (b) category wise restricted demand forecast
- (c) forecast for the plan period of energy and capacity availability from each of the existing sources of power
- (d) plans for reducing the demand for power in the forecast period through demand side management measures
- (e) allowed power purchase costs as per the approved plan for the ongoing year in terms of deviations from target purchases and generation of units and the financial implications of the same
- (f) behavior of grid frequency for the previous quarter for the ongoing year, current quarter for the ongoing year and the ensuing quarter for the previous year to evaluate possibilities of overdrawing from the grid as a substitute for firm short or long term trade agreements

- (4) The licensee shall approach the Commission every quarter with its short-term power procurement plan indicating its projections and plan for the ensuing quarter.
- (5) The proposal for short-term power procurement plan shall cover:
 - (a) the balance requirement of power and energy during the quarter after accounting for the existing agreements / arrangements
 - (b) time when power is required
 - (c) possibility for short term trade
 - (d) demand curtailment measures
 - (e) proposed method of competitive solicitation
 - (f) criteria for evaluation of alternative options
- (6) (a) The Commission, in consultation with the State Load Despatch Centre, State Transmission Utility etc and within two weeks from the date of receipt of complete information as required, shall communicate its approval to enable the licensee to enter into commercial agreements in time before the commencement of the ensuing quarter and make purchases
(b) The Commission shall indicate a ceiling on landed cost of power for the three months in the quarter under consideration for making purchases during morning peak, evening peak and off peak hours.
- (7) The Commission shall lay down a band of prices for various levels of projected demand to enable the licensee to make short term purchases expeditiously without obtaining approval of the Commission each time
- (8) The Commission shall make a review of the following at the time of finalizing procurement plan for each quarter:
 - (a) the process adopted by the licensee in the previous quarter to ensure that the commercial sense and financial prudence is strictly observed
 - (b) correctness of the assessment made by the licensee in regard to demand and availability
- (9) On receipt of approval from the Commission for the short term power procurement plan, the licensee shall prepare forecast of demand on month-wise and week-wise. The weekly forecast shall be made on hourly basis taking into consideration the likely rainfall, forecasted changes in weather, upcoming holidays or festivals etc.
- (10) Based on finalized requirement, the licensee shall enter into short term power purchase agreements or arrangements complying with the criteria laid down by the Commission and also take into consideration its directives on power purchase, allocation of power from different sources and generation from conventional and non-conventional sources within the State.

11. Procedure for power purchase

The licensee shall fulfill the following procedure while resorting to power purchase

- (1) intimate its daily requirement to SLDC a day in advance
- (2) implement the criteria for power purchase as laid down in the power procurement plan and as directed by the Commission
- (3) the SLDC shall work out the incremental and total cost of power purchase from each source based on relevant parameters such as fixed cost, variable cost, incentive, penalty etc and inform all the distribution licensees for adoption.

12. Review / scrutiny of power purchase arrangement / agreements

The Commission shall review or scrutiny any new power purchase agreement or arrangement or amendments to the existing power purchase agreements based on the following:

- (a) necessity
- (b) reasonability of cost
- (c) promoting efficiency, economy, equitability and competition
- (d) compliance with regulations
 - investment regulations
 - requirements of quality, continuity and reliability of supply
 - safety and environmental standards
 - criteria for purchase of power laid down
 - policy directives of Central and State Governments and National Power Policy

13. Mechanism for consultation

The Commission may constitute a mechanism for consultation among licensees

- (a) for meeting power shortages
- (b) for providing spinning reserves or frequency control capacity
- (c) for spot or bilateral purchase or overdrawl / under drawl of active and reactive power
- (d) other activities related to development of power procurement plan.

Chapter – 5

Guidelines for procurement of power

14. The distribution licensee shall comply with the following:

- (1) procurement shall be in an efficient and economical manner under a transparent process.
- (2) It shall be ensured:
 - (a) Power required is to meet the licensee's service obligation
 - (b) power requirement is in accordance with the load forecast and power purchase plan approved by the Commission
 - (c) all economic, technical, system and environmental aspects of commercially viable alternatives have been examined (including arrangement for reducing the level of demand) in a manner approved by the Commission.
- (3) procurement procedure shall be as per the guidelines issued by the Ministry of Power, Government of India and / or the directions / instructions issued by the Commission from time to time on
 - (a) power procurement plan; and
 - (b) power procurement procedure
- (4) No power purchase shall be made without an authorisation from the Commission except in the case of power purchases for less than 6 months which shall be subject to the criteria laid down by the Commission.
- (5) furnish copies of contracts / agreements for procurement of power purchase (both long term, medium term and short term) to the Commission within one month of conclusion of the agreements / contracts
- (6) make short term power purchase as and when need arises but not as a matter of routine and shall be for a minimal period and quantity for balancing the supply and demand under extra-ordinary situations.
- (7) make short term power procurement power through transparent bidding process
- (8) make efforts for contracting power purchases for a medium period, say upto 7 years, to ensure that all the consumers can be supplied with power at the lowest tariff to the extent possible.

15. Price limit for short-term purchases

- (a) The Commission may fix a limit on the price at which licensees may procure power through short-term purchase taking into all relevance factors and implications there to.
- (b) While fixing the price limit under item 15 (a) above, the Commission shall take into consideration:

- power purchase rates in other states for long term / medium term contracts to enable fixation higher rates for short term purchases
- monthly reports on CERC short term transactions, the weighted average cost of bilateral transactions through traders etc
- average realisation rate at current rates of tariff
- short term power purchase rates during the previous year for which tariff is fixed
- sensitivity analysis in regard to the short term purchases on the overall power purchase cost

(c) In case of purchase of required power beyond the price limit and the quantity, the licensee shall obtain prior approval of the Commission before making such purchase.

(d) The licensee shall not resort to purchase of short term power from a generating station / trader with whom power purchase agreement has already been entered into unless the power to be supplied is covered by the contracted quantum of power.

16. Procedure for power procurement

- (1) The licensee shall notify the proposal to procure power to attract the maximum number of technically and financially qualified bidders to supply the required power
- (2) The licensee shall issue a Request for qualifications
 - (a) to ascertain the technical suitability and the eligibility of the bidders
 - (b) specify the requirements of power and the terms and conditions under which power is to be supplied
- (3) The licensee shall indicate the procedure and the criteria for evaluation of bids and the selection of the successful bidder and also the time schedule thereto.
- (4) The licensee shall adhere to the procurement procedure, including notification, specified by the Commission from time to time.
- (5) The Commission shall review the procedure adopted by the licensee to ensure that the power procurement is made in a transparent manner, and also conduct investigation wherever it is noticed that the procedure followed is not in accordance with specified procedure.
- (6) The Commission may direct the licensee to take corrective steps, including cancellation of the tender and declaring the result as null and void wherever necessary.
- (7) The Commission shall accord approval, as and when necessary, if any deviation is required from the guidelines issued by the Ministry of Power, Government of India.

Chapter – 6**Miscellaneous****17. Removal of difficulties**

The Commission may, by general or specified order, remove any difficulty in implementing the provisions of these regulations, not being inconsistent with the Act in the manner considered appropriate.

18. Power to relax

The Commission reserves the right to relax any of the provisions of these regulations or any of the directives or guidelines issued from time to time subject to such conditions as it may deem necessary.

19. Power to amend

The Commission may, at any time, on an application or suo moto amend, modify, alter any of the provisions of these regulations, as it may deem necessary.

20. Savings

Nothing in these regulations shall be deemed to limit or otherwise affect the power of the Commission

- (a) to issue any order direction, as it may deem necessary in public interest
- (b) to adopt any procedure, in conformity of with provisions of the Act, which is at variance to the provisions of these regulations
- (c) to deal with any matter or exercise any power under the Act for which no regulations have been framed.

Secretary
Meghalaya State Electricity Regulatory Commission
Shillong.